



Custody, Access and Child Support: Findings from The National Longitudinal Survey of Children and Youth

By:

Nicole Marcil-Gratton

Céline Le Bourdais

Centre interuniversitaire d'études démographiques
Université de Montréal / Institut national de la recherche scientifique

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EXECUTIVE SUMMARY

BACKGROUND

In the spring of 1998, the Child Support Team of the Department of Justice Canada commissioned an analysis of the data relating to custody, access and child support from the “Family History and Custody” section of the National Longitudinal Survey of Children and Youth (NLSCY).

The NLSCY will follow a group of children until they reach the age of 20. Over 22,000 children from birth to age 11 were first surveyed in the winter of 1994-1995. The survey will be repeated every two years until at least the year 2002. These data provide a unique means to study, over an extended period, how different aspects of children’s environments influence their development. Statistics Canada has released the first cycle results and, for the first time, national data are available on the changes in family life that Canadian children experience, including detailed information on their living arrangements and patterns of contact with their parents.

MAIN FINDINGS

Children are born into diverse family contexts and in increasing proportions to unmarried parents

Thirty years ago, most children were born to first-time married parents who had not lived together nor lived with another partner before marriage. Today, a similar proportion of children are born into two-parent families but, increasingly, their parents are not married. This trend is particularly strong in Quebec, where only 23 percent of the 1993-1994 birth cohorts in the survey were born to parents who married directly.

An increasing proportion of children experience life in a single parent family and they do so earlier in life

One in four children born in the early 1960s had experienced life in a single parent family by the age of 20. One in four children born 10 years later had experienced their parents’ separation by the age of 15. According to the NLSCY, almost one in four children born in 1987-1988 had experienced their parent’s separation by the age of 6.

Children born to common-law couples face a greater risk of experiencing their parents’ separation

The risk of separation is greatest among common-law couples. By the time children born to common-law couples between 1983-1984 reached the age of ten, 63 percent had already experienced the separation of their parents, compared to only 14 percent of children born to parents who married without first living together. This trend is not as strong in Quebec. Nonetheless, common-law unions remain less stable than unions where the partners married directly.

After their parents' separation, the vast majority of children live with their mother

Court orders place 80 percent of children under the age of 12 in their mother's care. Seven percent of children are placed in their father's custody and 13 percent of children are covered by what their parents described as a court order for joint physical custody. Interestingly, most children (69 percent) for whom parents had obtained a shared physical custody order actually lived with their mother only. A very small number of children lived under arrangements where care was shared equally: less than 2 percent of children for whom custody orders were obtained and less than 4 percent in other cases.

After separation, most children see their father less than once a week

After separation, very few children (7 percent) lived with their father only and another small fraction shared residences, although mostly unevenly, with both parents (7 percent). The rest lived with their mother and visited their father with varying frequency: less than one third (30 percent) visited every week, and another 16 percent visited every two weeks. One quarter of children visited their father irregularly and 15 percent never saw him.

The frequency of contact with the father is associated with the type of child support agreement reached, the existence of a court order for custody and the regularity of support payments

One of the striking findings of the survey was that, for most children from broken families, parents said there was no court order for support. For 32 percent of children, parents said there was no agreement at all; for another 32 percent, parents described the arrangements for child support as a private agreement and, for the remaining 36 percent, parents said there was a court order for child support.

When the arrangements for child support were described as a private agreement between the two spouses, 18 percent of children were residing with their father at least part of the time, 44 percent saw their father weekly and only 4 percent never visited with him. When parents said there was a court order for child support, only 5 percent lived with their father full or part-time, 22 percent saw him weekly, and 17 percent never saw him. When there was no child support agreement the numbers were in between: 18 percent lived with their father full or part-time, 25 percent visited weekly, and 24 percent never visited.

Where there was a private agreement for child support, children received more regular support payments than when there was a court order (66 percent vs. 43 percent). Fathers who tended not to pay child support also saw their children less frequently. Of the fathers who had not made a child support payment in the last six months, only 15 percent saw their children weekly and 28 percent never saw their children. Conversely, fathers who supported their children financially tended to see their children regularly: almost half (48 percent) of regular payers saw their children every week and only 7 percent never saw them.

CONCLUSION

The NLSCY provides invaluable data on the family histories of children in Canada. Further cycles will allow us to assess the impact of the many challenges that face Canadian children as more and more experience the separation of their parents, and at increasingly young ages.

The first cycle results show that the type of union parents enter into raise their family has far-reaching consequences on the lives of their children. Common-law unions are more likely than marriages to end in separation. Children of these common-law unions are more likely than children from broken marriages to live exclusively with their mother; they are more likely to see their father irregularly or not at all; and they are less likely to benefit from regular child support payments. Children whose parents divorce rather than separate are more likely to be covered by a court-ordered child support agreement, but children covered by a private agreement are more likely to receive regular support payments than those covered by a court-ordered agreement.

Further analysis is required to look at such variables as the impact of separation on the level and sources of income for custodial parent households, or the impact of new unions by either parent on existing agreements regarding children from previous unions. It is these questions that we will turn to in our future research.

I – INTRODUCTION

This report presents a statistical profile of Canadian children whose parents have separated, in terms of custody and living arrangements, access to the non-custodial parent and the availability of child support payments. Little is known about these issues in Canada, particularly where the parents have separated but not divorced. However, with the release¹ of the data on children's family history and custody from the National Longitudinal Survey of Children and Youth (NLSCY), we can begin to sketch an accurate portrait of children from broken homes and the arrangements parents make for their care.

The NLSCY is a panel survey conducted jointly by Human Resources and Development Canada (HRDC) and Statistics Canada. Over 22,000 children from birth to age 11 were first surveyed during the winter of 1994-1995. The sample is organized to provide a cross-sectional set of data at each cycle. The original sample is being followed every two years at least until the year 2002, and is representative both nationally and provincially. The survey covers a spectrum of issues, ranging from the developmental progress to the socio-economic background of the children.

The section of the survey entitled "Family and Custody History" is of specific interest to us here. It contains the complete retrospective family histories of both parents, including their on-going parental and conjugal circumstances if there was a separation or divorce. This section looks at the existence of child support and custody orders, the actual living arrangements of the children, the nature and frequency of their contacts with the non-custodial parent and the regularity of child support payments. Considered in conjunction with the rest of the survey, the questions in the section on family and custody history will allow researchers to measure the impact of the circumstances surrounding parental break-up on the development of the children. To date, only the results from the 1994-1995 survey are available, but thanks to the retrospective questions on family history and custody, it is possible to examine the influence of past changes in family life on children's well-being at the time of the survey. As the subsequent cycles of the survey data in this section of the survey become available, it will be possible to look further at the changes that occur in the lives of individual children.

This report addresses the following questions:

Separation and Divorce

How many children experience their parents' separation and at what age?

What proportion of these separations are due to the break-up of a legal marriage as opposed to a common-law union?

What proportion of marital separations end in divorce?

What proportion of children are involved in a de facto separation as opposed to a divorce?

¹ The survey results on the Family History and Custody section were released June 2, 1998. See Statistics Canada, *The Daily*, June 2, 1998.

Custody and Access

Where there is a custody order, how many children are in the custody of their mother only, father only or both parents through shared custody?

What are the actual living arrangements of the children where parents said there was a custody order?

How do these arrangements compare to cases where parents said there was no custody order?

What kind of contact do children maintain with either parent after separation and how frequently do they keep in touch with each of them?

Does the type of contact and the frequency vary with the type of separation?

Do contact arrangements change over time? If so, how?

Child Support

What proportion of child support agreements are court-ordered, as opposed to private agreements?

Is the regularity of child support payments related to the existence of a court order?

Does the regularity of the support payments vary according to the type of parental union?

Which factors are associated with frequent and regular contact between non-custodial parents and their children?

Which factors are associated with infrequent contact or lack of contact?

Do these factors change over time?

To what extent does it appear that custody, access and child support agreements are related to the degree of tension that existed between the parents when they were in the process of settling the issues of contact and living arrangements?

This report does not provide complete answers to all of the above questions. However, some of the results presented below will stimulate discussion and guide further analyses of the rich and complex database that is available with the release of the Family and Custody History section of the NLSCY.

II – THE COMPLEX FAMILY LIVES OF CANADIAN CHILDREN

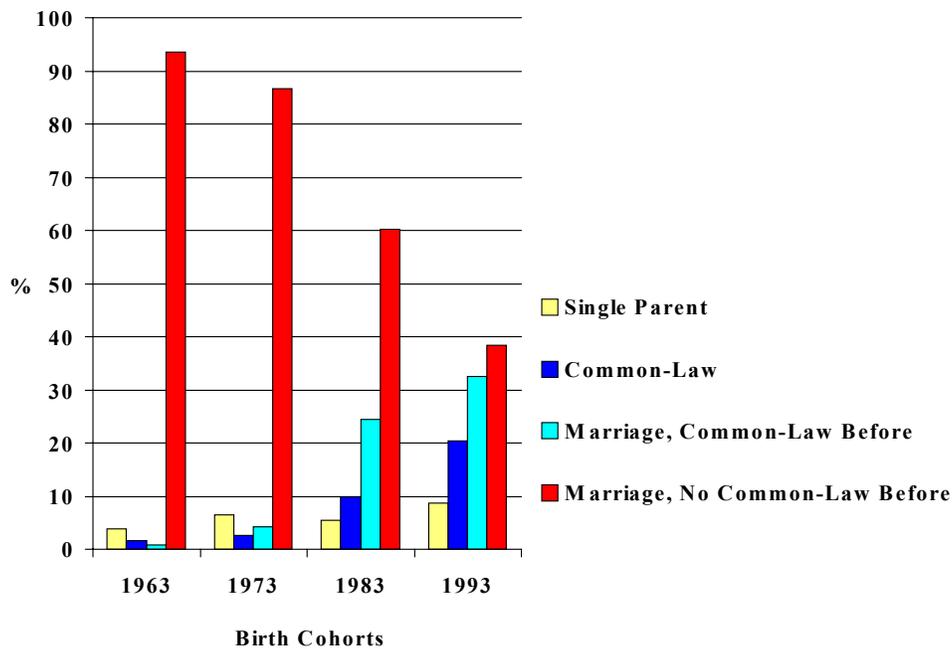
Before turning to the specific questions about custody, living arrangements and child support, it is important to look at the extent to which the family circumstances of children have changed over the years. For example, it is important to know whether the proportion of children who are not born to first-time married parents is changing, and whether the risk of parental separation is linked to the type of union into which the children are born. To provide this context, we will summarize the main findings of work previously carried out by one of the authors.²

² Statistics Canada, by Nicole Marciel-Gratton. *Growing up with Mom and Dad? The intricate family life courses of Canadian children*. Catalogue No. 89-566-XIE, August 1998.

Increasing Numbers of Children are Being Born to Unmarried Parents

Thirty years ago, most children were born to first-time married parents, parents who had never cohabited nor previously lived with another partner. Today, almost as many children are born into two-parent families but, increasingly, their parents are not married. We will first examine the changes in Canada as a whole before turning to the situation in Ontario and Quebec, provinces where the changes have been the smallest and largest, respectively.

Figure 1: Family Context at Birth for Various Cohorts of Children—Canada



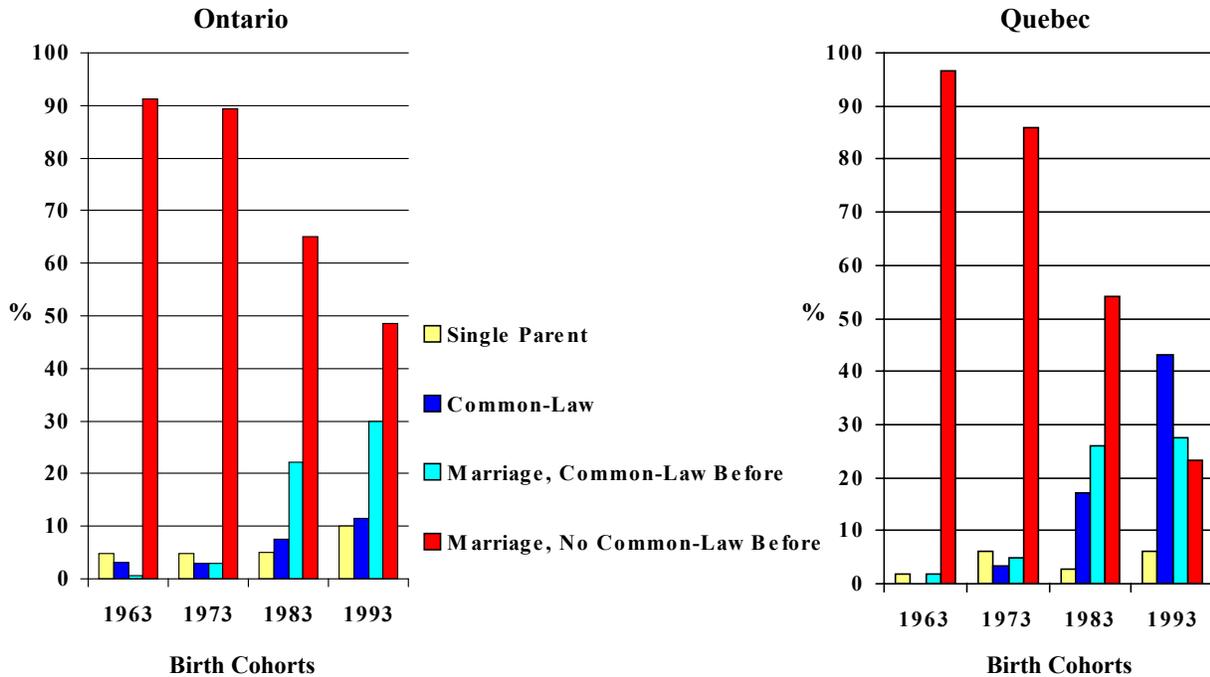
Sources: 1961-1963 Cohorts = Family History Survey 1984; 1971-1973 Cohorts = General Social Survey 1990; 1983-1984 and 1993-1994 Cohorts = NLSCY 1994-1995.

Figure 1, which presents the family context at birth for various cohorts of Canadian children, shows that nearly all children born in the early 1960s were born to parents who married without living together before (over 90 percent).^{*} A small percentage (about 5 percent) of children were born to single mothers, that is, unmarried mothers who were not living with a partner. Strikingly, this percentage has not changed much over time. However, this fact has been masked by birth statistics that classified all births to unwed mothers as “illegitimate” until 1974. Since then, the more politically correct term “out-of-wedlock” has been used to refer to these births. The impression remains, however, that the births were occurring to single mothers who were not living with the fathers of their children. The situation has since changed radically. In the NLSCY 1993-1994 cohorts, children born to parents who married directly represented less than 40 percent of all births. The biggest changes were in the proportion of children born to married parents who first lived together (nearly 33 percent), and the proportion of children born to cohabiting parents (20 percent). These changes, however, did not occur uniformly across the country.

^{*} Editor’s Note: Numbers expressed as percentages have been rounded off in the text. Percentages of .4 and less have been rounded down to 0 and percentages of .5 and greater have been rounded up to the next whole number.

In Ontario, the proportion of births to common-law parents never reached the levels observed elsewhere in Canada: only 12 percent of the children in the youngest birth cohorts (1993-1994) of the NLSCY were children of common-law parents (Figure 2). Births to parents who had lived together before marrying rose to about 30 percent in those cohorts. Nevertheless, the main pattern in this province remained one in which children were born to married parents who had never lived together before getting married (almost 50 percent).

Figure 2: Family Context at Birth for Various Cohorts of Children— Ontario and Quebec



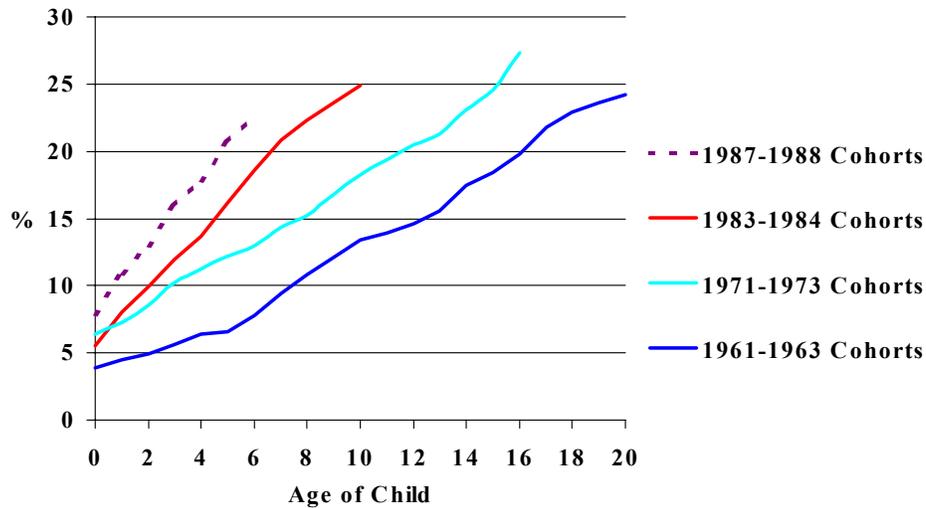
Sources: 1961-1963 Cohorts = Family History Survey 1984; 1971-1973 Cohorts = General Social Survey 1990; 1983-1984 and 1993-1994 Cohorts = NLSCY 1994-1995.

In contrast, the percentage of births to parents who married directly in Quebec was only 23 percent in the 1993-1994 cohorts. Barely half of all births were to married parents, including those who cohabited before, while 43 percent were to common-law couples. The proportion of out-of-wedlock births reached 50 percent if one takes into consideration children born to lone mothers, as do Statistics Canada and the Bureau de la statistique du Québec.

An Increasing Proportion of Children are Experiencing Life in Single Parent Families and at an Increasingly Young Age

Figure 3 presents the proportion of Canadian children who experienced life in a single parent family among various birth cohorts. More specifically, it shows the cumulative percentage of children who were born to a lone parent or who had experienced their parents' separation before their last birthday.

Figure 3: Cumulative Percentage of Canadian Children Who Were Born to a Lone Parent or Have Experienced the Separation of Their Parents, for Various Birth Cohorts



Sources: 1961-1963 Cohorts = Family History Survey 1984; 1971-1973 Cohorts = General Social Survey 1990; 1983-1984 and 1987-1988 Cohorts = NLSCY 1994-1995.

Figure 3 illustrates that an increasing proportion of children are living in single parent families and at an increasingly young age. Let us first examine the family situations of children who were born 30 years ago (1961-1963 cohorts). In these cohorts, almost 25 percent of the children were either born to a single mother or had seen their parents separate before they reached the age of 20. Half of the parents of this group had separated after the child reached the age of 10, which means the separation occurred after the 1968 amendments to the *Divorce Act* which made it easier for couples to divorce.

Children who were born 10 years later (1971-1973 cohorts) experienced their parents' separation at an even younger age. By age fifteen, 25 percent of these children had already experienced life in a single parent family. Three times out of four, the child had experienced this before the age of ten.

Children from the NLSCY who were born after 1983 experienced their parents' separation even earlier. By age 10, one child out of four born in 1983-1984 had experienced life in a single parent family and nearly 23 percent of children in the younger cohorts (those born in 1987-1988) experienced the same by the age of 6.

There is little reason to suggest that these trends will slow down in the near future, since the rising proportion of children born in common-law unions face a higher risk of experiencing their parents' separation, as we shall now see.

Children Born to Common-Law Couples Face a Greater Risk of Experiencing Their Parents' Separation

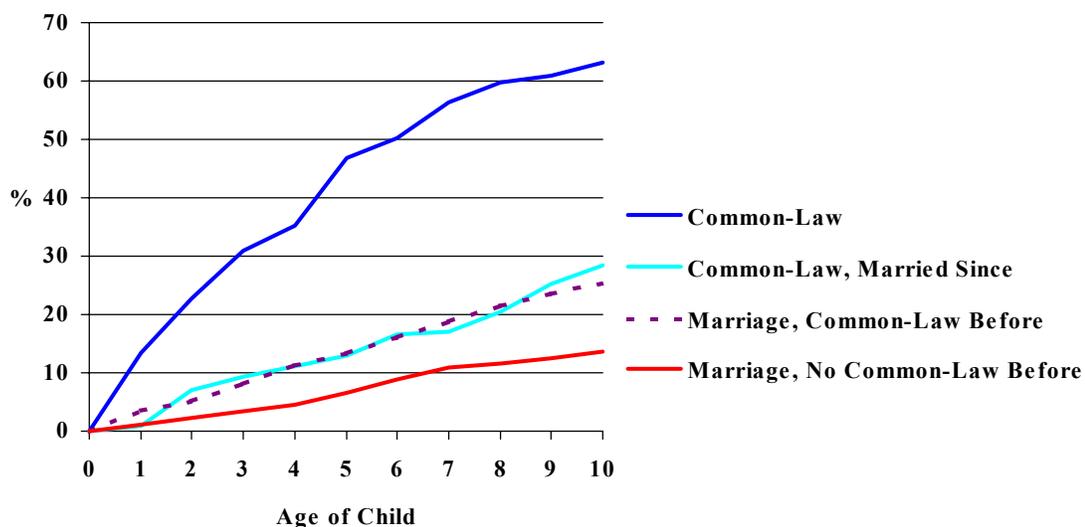
The choice of parents to live together rather than marry has far-reaching consequences for the survival of the family unit. Figure 4 presents the cumulative percentage of Canadian children, born in two-parent families, who experienced parental separation according to the type of parental union. The analysis is based on the 1983-1984 cohorts which are made up of children who had reached the age of 10 by the time the NLSCY was conducted.

Four types of parental unions are distinguished:

1. parents who married directly without living together beforehand;
2. parents who lived together beforehand, but married before the children were born;
3. parents who were living together at the birth of the children, but married afterwards; and
4. parents who remained in a common-law union.

In the 1983-1984 cohorts, 60 percent of the children were born to parents who married without first cohabiting, and 24 percent to parents who married after cohabiting. Another 10 percent of children were born to cohabiting parents and for 3 percent of this group the parents married before the child's tenth birthday. Children born to a single parent (6 percent) are excluded from the analysis.

Figure 4: Cumulative Percentage of Canadian Children Born in a Two-Parent Family, Who Have Experienced Their Parents' Separation, According to Type of Parents' Union—1983-1984 Cohorts—NLSCY 1994-1995



As can be seen in Figure 4, parents who lived together before marrying were more likely to separate than parents who married without first living together, but less likely to separate than couples who remained in a common-law union. Indeed, as common-law unions have almost

become the norm as a way of entering into conjugal life, studies have shown that couples who married after first cohabiting increasingly resemble couples who married directly.

The highest risk of separation is in families involving common-law couples: by the time children born in 1983-1984 reached the age of ten, 63 percent of them had experienced the separation of their parents, compared to only 14 percent of children born to parents who married without first living together.

Does this pattern hold all across the country, or is it different in Quebec where common-law unions are sometimes viewed as a retreat from the formality of marriage, though the couples are as committed as couples who marry?

Figure 5 illustrates the cumulative percentage of children who experienced the separation of their parents before the age of six, according to the type of parental union, in Quebec and Ontario. This figure confirms that common-law unions are indeed more stable, or perhaps we should say less unstable, in Quebec than in Ontario; only 37 percent of children born to cohabiting parents between 1983 and 1988 in Quebec experienced parental separation before the age of six, as compared to 61 percent in Ontario. Nonetheless, common-law unions are less stable than marriages. Moreover, although common-law unions are less unstable in Quebec than in the rest of Canada, the fact that more children are born and raised into these unions in Quebec (20 percent in Quebec versus 5 percent in Ontario for the 1983-1988 cohorts) clearly outweighs the benefits of their greater relative stability in Quebec.

Figure 5: Cumulative Percentage of Children Born in a Two-Parent Family, Who Have Experienced Their Parents' Separation Before Age 6, According to Type of Parents' Union—1983-1988 Cohorts—NLSCY 1994-1995

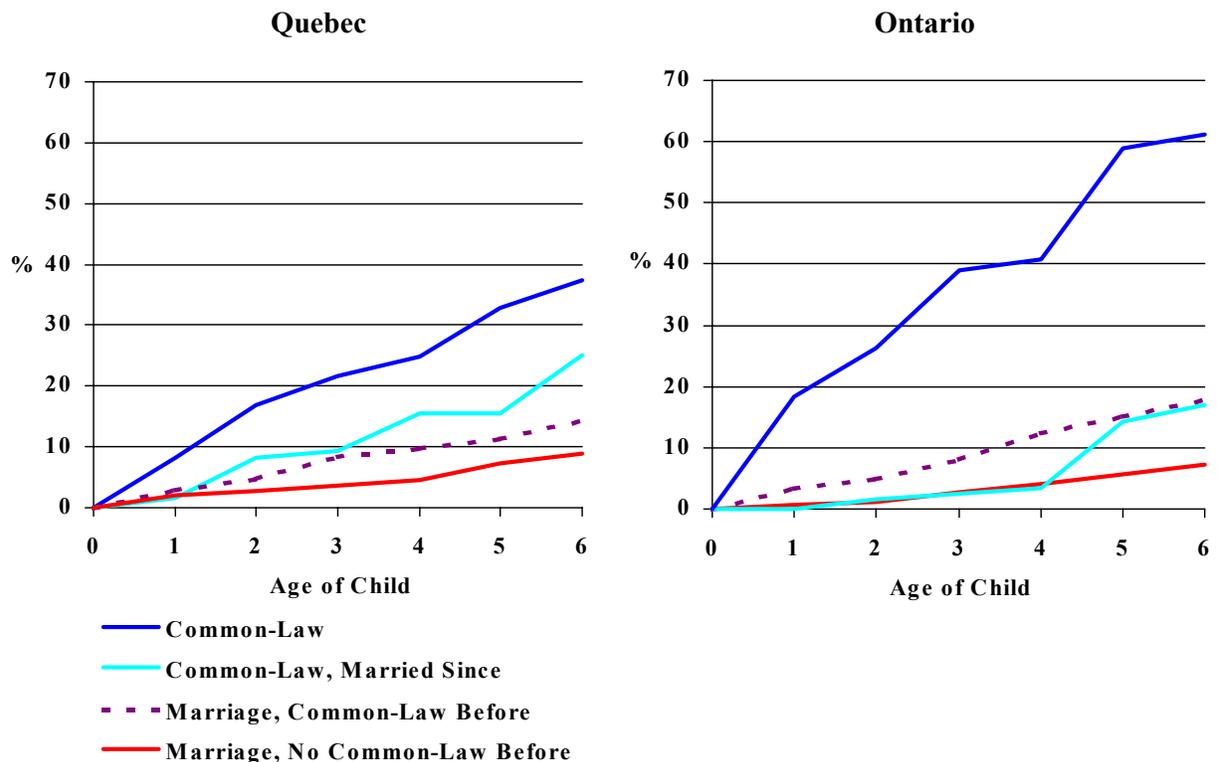


Figure 5 presents the experience of children born during the 1980s. What will happen to children born to common-law couples in the 1990s, when cohabitation is more widespread as a way of entering family life? Will these unions remain as unstable as they were in the 1980s? This remains to be seen, but the answer is significant given that over 40 percent of all children born in Quebec in 1993-1994 were born into common-law unions.

Having set the stage with a brief description of the changing family situations of children in Canada, let us now turn to the questions of custody, access to the non-custodial parent and child support payments for the growing number of children whose parents have separated.

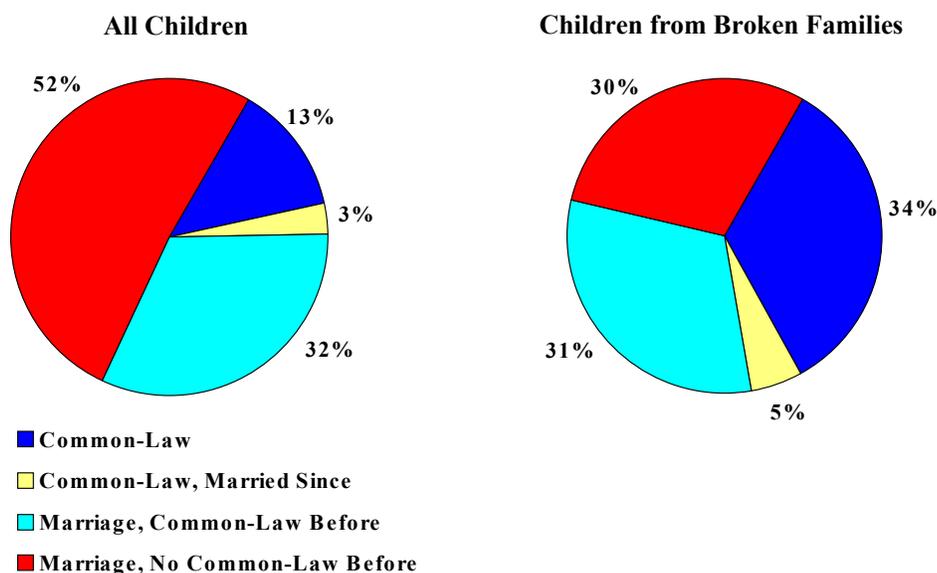
III – WHEN PARENTS SEPARATE: CANADIAN CHILDREN FROM BROKEN FAMILIES AND THE LAW

As we have seen, increasing numbers of children from broken homes were born to parents who did not marry. How then do these parents settle the issues of custody, access and child support and what kind of impact do these decisions have on the day-to-day lives of the children? Do unmarried parents act differently when they separate, or is the care of the children settled in a similar way regardless of the type of union?

Children from Broken Families Come Disproportionately from Common-Law Unions

Of all children from birth to age 11 born in a two-parent family who were sampled by the NLSCY, 13 percent were born into a common-law union that had not been formalized into a marriage at the time of the survey. The majority of children (52 percent) were born to couples who had not lived together before marriage and another 32 percent were born to married parents who had first lived together (See Figure 6).

Figure 6: Distribution of Children Aged 0-11 and of Children from Broken Families, According to Type of Parents' Union—Canada—NLSCY 1994-1995



Looking only at children whose parents have separated, we see that the distribution is quite different: only 30 percent of these children came from married couples who had not lived together before marriage and a slightly greater proportion (34 percent) were from common-law couples who had not married at the time of the survey. Children born to common-law unions were clearly over-represented among children who experienced the break-up of their families. Moreover, when we look at the data by birth cohort, the trend is clearly more pronounced for the younger cohorts (see Table 1). As the percentage of children born to common-law unions increases, it naturally makes up a larger proportion of all children who have experienced their parents' separation. Among children from broken families in the 1983-1984 cohorts, 21 percent had parents living common-law and that proportion jumped to 54 percent for the 1991-1992 cohorts.

It will be seen below that the type of broken union has an impact on the likelihood that the parents will obtain a court order for custody and child support.

Table 1: Distribution of All Children and of Children from Broken Families¹ by Cohort and Type of Parental Union at Time of Birth—NLSCY, Cycle 1, 1994-1995

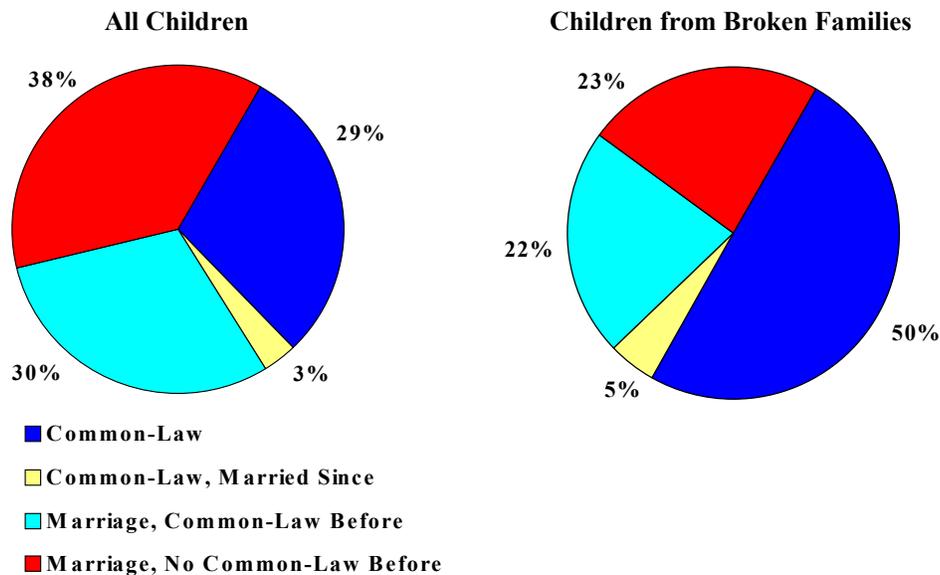
Birth Cohorts	Common-Law	Common-Law, Married Since	Marriage, Common-Law Before	Marriage, No Common-Law Before	Total	N²
1983-1984 Cohorts (10-11 years)						
All children	6.9	3.5	25.8	63.7	100	3574
Children from broken families	21.2	4.9	31.8	42.1	100	733
1985-1986 Cohorts (8-9 years)						
All children	8.3	4.1	31.4	56.2	100	3514
Children from broken families	27.1	6.6	32.9	33.4	100	594
1987-1988 Cohorts (6-7 years)						
All children	12.6	3.9	31.2	52.3	100	3344
Children from broken families	34.0	6.9	32.5	26.6	100	532
1989-1990 Cohorts (4-5 years)						
All children	13.6	3.5	33.8	49.1	100	3512
Children from broken families	48.6	2.6	31.0	17.8	100	425
1991-1992 Cohorts (2-3 years)						
All children	18.3	2.6	34.8	44.3	100	3429
Children from broken families	53.5	1.6	28.9	16.0	100	254

¹ These children have witnessed their parents' separation before the last birthday celebrated by all cohort members. Example: before the 10th birthday for the 1983-1984 cohort.

² N = Weighted data brought back to the original sample size.

Were these findings observed uniformly across the country? Yes, with the exception of Quebec where the trend was more pronounced. In Quebec, a larger proportion of all NLSCY children were born to common-law couples (29 percent), so it is not surprising to find that children born to these couples constitute a larger fraction (50 percent) of those children who experienced a family break-up (See Figure 7).

Figure 7: Distribution of Children Aged 0-11 and of Children from Broken Families, According to Type of Parents' Union—Quebec—NLSCY 1994-1995



The next question to address is how custody and child support are resolved, whether or not the parents were married. Is the existence of a custody or child support court order linked to the type of union (marriage, common-law) and to the legal status of the separation (divorce, legal separation, de facto separation)? To begin answering this question, we first examine the trends in divorce rates among married couples.

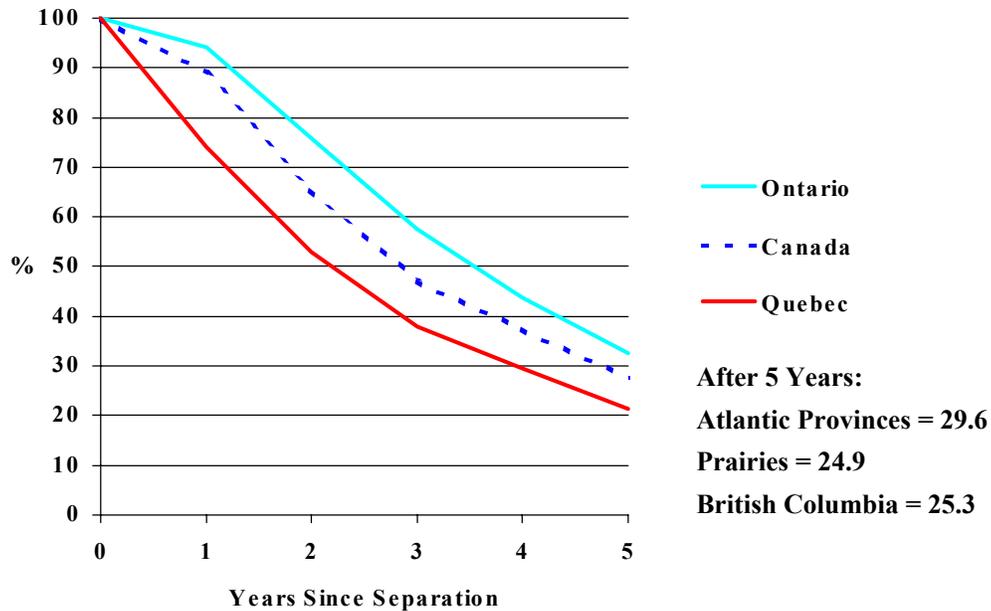
Mom and Dad Were Married: Will They Divorce?

Divorce rates have consistently gone up in Canada since the adoption of the Divorce Act in 1968 and the 1985 amendments that liberalized access to divorce for Canadian couples. There have been some changes in the raw numbers since the early 1990s: the total number of divorces reached a plateau before starting to decrease slightly in the second half of the decade. Yet the divorce rate, which is the proportion of marriages that end in divorce, has never declined. It is the number of marriages that has gone down. Recent estimates show that if trends observed continue, 40 percent of all marriages in Canada could end in divorce, and that percentage could conceivably reach 50 percent.

However, are the changes we observed in the way people are entering into unions indicative of changes in the way they choose to end them? Might we not expect that increasing proportions of legally married couples wishing to end their marriages would separate without ever legalizing their break-up through divorce?

To address this question, it is useful to examine the survival curves presented in Figure 8. These curves show, for given regions, the percentage of children from broken marriages whose parents had not divorced, according to the time elapsed since separation. Obviously, the results presented in Figure 8 are linked to the grounds on which one can obtain a divorce and regional differences in the divorce process itself, which can affect the time it takes to get a divorce.

Figure 8: Percentage of Children from Broken Marriages Who Have Not Yet Witnessed Their Parents' Divorce, According to Time Elapsed Since Separation—NLSCY 1994-1995 (Life Table Estimates)



As Figure 8 shows, in Canada almost half (47 percent) of the children from broken marriages had not seen their parents divorce after three years of separation and this percentage was still 28 percent after five years of separation. One may well ask whether the couples who have not divorced after five years will ever obtain a divorce.

Apart from Quebec, the proportion of children in different regions of the country whose parents had not yet divorced after five years did not vary greatly from the national average. Quebec seems to be a province in which everything tends to happen quickly, including divorce after separation. Figure 8 shows that in Quebec, only 74 percent (as compared to 94 percent in Ontario) of children from broken marriages had not seen their parents divorce after one year and this percentage drops to 21 percent after five years.

A survival regression applied to these data confirms that in Quebec there is a greater tendency for separated parents to divorce early and this result is not linked to the greater likelihood for parents to live together before marrying (Table 2). Controlling for prior cohabitation, the age of the child at the time of separation and the period in which the separation occurred, children in Quebec are more likely than children in Ontario or in the Atlantic provinces to see their separated parents obtain a divorce. The propensity of separated parents to divorce does not appear to be linked to the age of the child at the time of the separation. Parents who separated in the 1990s appear to be less likely to divorce than parents who separated between 1983 and 1989. Couples who started by living together rather than marrying are also somewhat less likely to divorce.

Table 2: Impact of Given Variables on the Probability of Separated Parents Getting a Divorce—NLSCY, Cycle 1, 1994-1995

(Cox Proportional Hazard Coefficients)

Variables ¹	Coefficients ²
Region (Quebec)	1.000
Atlantic Provinces	0.693 **
Ontario	0.591 ***
Prairies	0.839
British Columbia	0.838
Age of child at separation (6-11 years)	1.000
0-5 years	0.933
Year of separation (1983-1989)	1.000
1990-1995	0.698 ***
Type of broken marriage (marriage, no common-law union before)	1.000
Marriage, common-law union before	0.860 *

¹ The reference category is given in parentheses.

² Risk ratios. Coefficients significant at: * = 0.05
 ** = 0.01
 *** = 0.001

Some explanation for the patterns in Quebec may be found in the emphasis in that province on beginning divorce or separation proceedings as quickly as possible after the couple has, in fact, separated. Unlike in Ontario, for example, where the date on which the couple stopped living together is the date used to determine the value of the family patrimony, section 417 of the Quebec Civil Code states that the net value of the family patrimony is determined on the date proceedings are begun. Therefore, clients are always advised to initiate proceedings as quickly as possible to protect themselves, and attempt to prevent the other spouse from disposing of assets. Moreover, if they have grounds other than the one-year separation, couples in Quebec are often encouraged to proceed directly to a divorce without going through the separation procedure in order to reduce legal fees. Since both types of proceedings cost the same, it can amount to considerable savings to avoid the separation stage.

Apart from these regional explanations for the patterns in the timing of divorce, we may still ask whether the tendency to separate but not divorce is related to more widely held liberal attitudes towards conjugal life in general. It may also very well be that the difficulty former spouses encounter in settling issues surrounding custody and support affects whether or not they will obtain an order from the court to deal with these issues. We will attempt to answer this question by examining the relationship between the degree of tension reported by parents over visiting rights and living arrangements, and the existence of a custody order.

Custody Arrangements

When couples increasingly live together and have families without marrying, we have seen that breaking up also tends to occur without resort to the legal system. Does this affect the likelihood of separated parents obtaining a court order for custody? Is the custody of children increasingly arranged out of court? How does this relate to the parents' decision not to marry or divorce?

The NLSCY asked parents the following questions about their custody arrangements:

“Was there a court order concerning ...’s custody when his/her parents separated or divorced?”

1. Yes
2. Yes, in progress
3. No
8. Don't know
9. Refusal

“Did the court order him/her to be put into ... ?”

1. Sole custody of mother
2. Sole custody of father
3. Shared physical custody of both
4. Other
8. Don't know
9. Refusal

Existence of Court Orders for Custody and Variations by Time Since Separation, Type of Separation and Region of Canada

Table 3 provides a breakdown of the frequency with which court orders were obtained for the custody of the children. In Canada as a whole, parents reported they had a court order or that they were in the process of obtaining one, in 48 percent of the cases. However, this percentage is not the same across the country. It is lower in the Prairies and B.C. (42 percent) and higher in Quebec (58 percent).

Table 3: Distribution of Children According to Whether a Court Order for Custody Exists, by Region, Type of Broken Union and Time Elapsed Since Separation—NLSCY, Cycle 1, 1994-1995

	Court Order	Court Order in Progress	Not Submitted to the Court	Total	N¹
Canada	37.4	10.1	52.5	100.0	3295
Atlantic Provinces	44.0	4.7	51.3	100.0	253
Quebec	29.7	28.5	41.8	100.0	811
Ontario	39.4	5.0	55.5	100.0	1213
Prairies	39.1	2.9	58.0	100.0	563
British Columbia	40.0	2.5	57.6	100.0	456
Type of broken union					
Common-law	27.9	11.9	60.2	100.0	1175
Marriage, common-law before	42.4	9.4	48.2	100.0	1141
Marriage, no common-law before	44.1	7.8	48.2	100.0	927
Time elapsed since separation					
Less than 1 year	15.7	11.3	73.0	100.0	566
1-2 years	29.3	10.4	60.3	100.0	906
3-4 years	43.2	12.6	44.2	100.0	761
5 years and over	51.7	7.3	41.0	100.0	1062

¹ N = Weighted data brought back to the original sample size.

It is perhaps surprising that court orders for custody (including court orders and court orders in progress) are obtained more frequently in Quebec than in the rest of the country. As Table 3 indicates, court orders are more likely to exist where the parents were married at the time of separation (52 percent) than where they were living common-law (40 percent). Consequently, one might have expected the existence of court orders for custody to be less frequent in Quebec, given the greater number of common-law unions and the fact that children from these broken unions constitute a greater proportion of children from broken families. However, in Quebec a separation judgment must be granted for the separation agreement to be recognized in law and enforceable, therefore court orders are the norm whether or not the couple was married.

As would be expected, the lower portion of Table 3 shows that the number of cases in which parents said they had a court order rises as the time elapsed since separation increases: in the first year after separation a court order for custody exists in only one case out of four, and after five years, the percentage has risen to 59 percent. It is clearly very important to allow for the passage of time in examining these issues to avoid drawing incorrect conclusions from the survey data. “Five years and over” probably represents an accurate dividing line to distinguish parents in terms of the likelihood of using the courts to formalize their arrangements for custody or child support. If parents do not have a custody order after five years, it seems fair to assume that these parents are unlikely ever to seek recourse to the courts.³

³ The fact that the proportion seems to stabilize even sooner, three or four years after the separation, tends to confirm this interpretation.

Table 4 illustrates the impact of the type of parental separation on the likelihood of having a custody order. Five years or more after separation, children of separated common-law parents (52 percent) and children whose parents were married and separated but not yet divorced at the time of the survey (63 percent) were much more likely not to be covered by a court order for custody than children whose parents had actually divorced (29 percent).

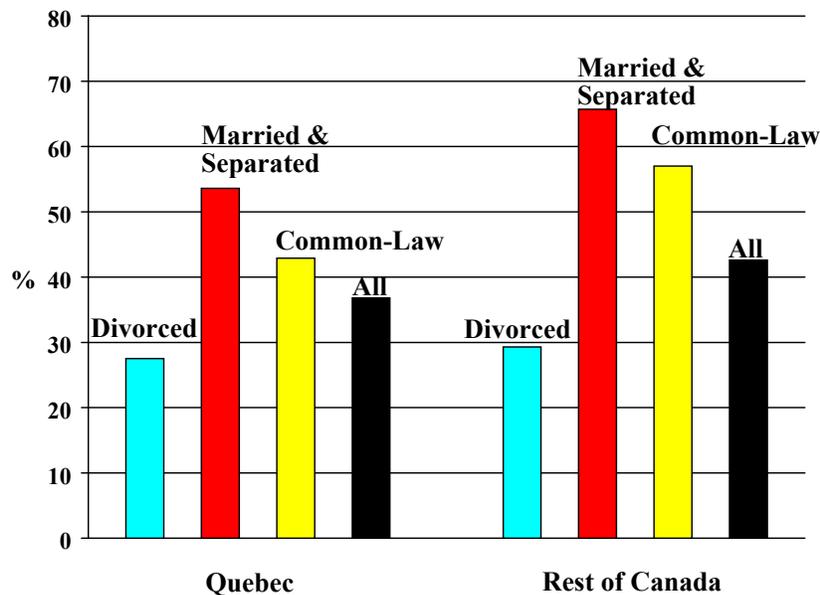
Table 4: Percentage of Children from Broken Families for Whom a Court Order for Custody Does Not Exist, According to the Time Elapsed Since Separation and the Type of Parental Separation—NLSCY, Cycle 1, 1994-1995

Type of Parental Separation	Time Elapsed Since Separation (N)				Total
	Less Than 1 Year	1-2 Years	3-4 Years	5 + Years	
Divorce	- (20)	29.9 (172)	27.9 (288)	28.8 (559)	30.1 (1038)
Marital separation	70.4 (322)	68.4 (442)	52.5 (189)	62.8 (123)	65.6 (1075)
Common-law separation	73.7 (218)	65.8 (293)	55.2 (283)	51.9 (381)	60.2 (1175)
Total	73.0 (566)	60.3 (906)	44.2 (761)	41.0 (1062)	52.5 (3295)

Note : Results based on less than 25 cases are not presented.

Again, one may ask whether the situation is the same across the country. In particular, do children from broken common-law unions in Quebec experience similar situations to children in the rest of Canada? Figure 9 compares children in Quebec and the rest of Canada in terms of the likelihood of not having a court order for custody by the type of parental separation.

Figure 9: Proportion of Children Whose Parents Have Been Separated for at Least 5 Years and for Whom a Custody Order Does Not Exist, According to the Type of Parental Separation—Quebec and Rest of Canada—NLSCY 1994-1995

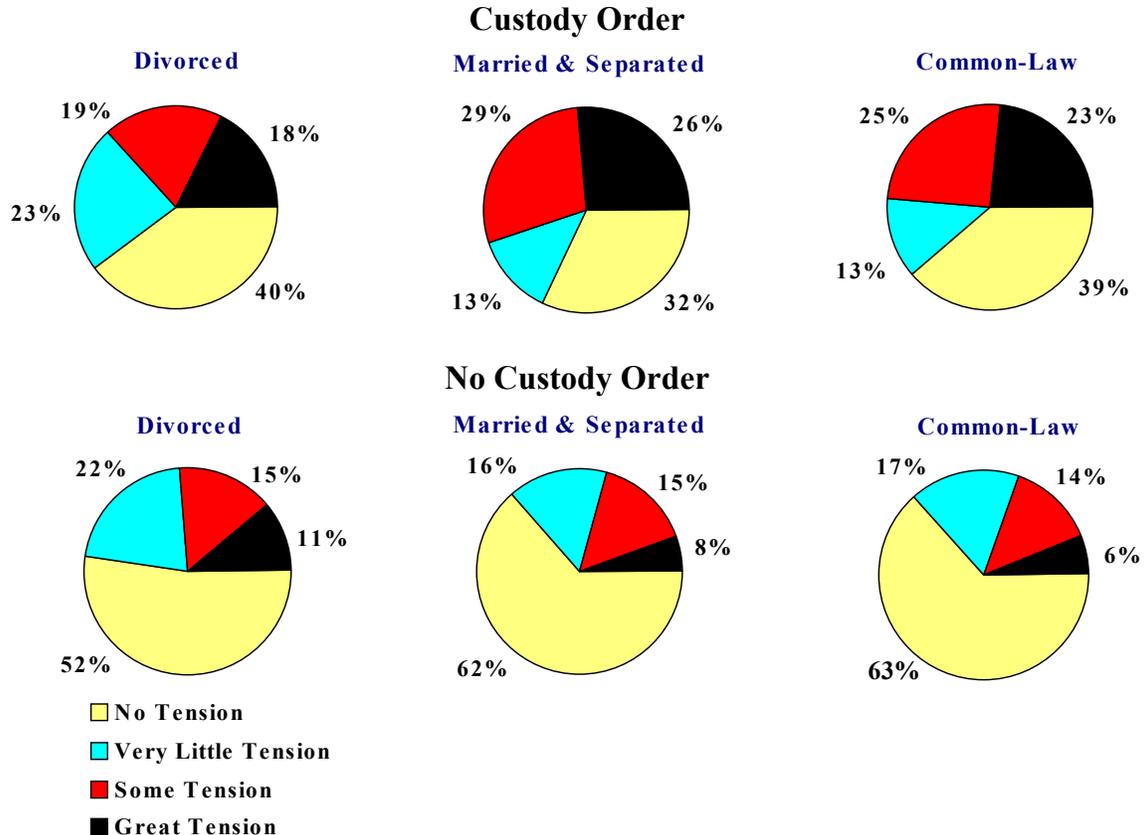


As might be expected, parents in Quebec more often report having a court order for custody than do parents from other parts of the country. The impact of the requirement to obtain a separation judgment formalizing the separation agreement is evident: five years or more after separation, parents reported that they did not have a court order for custody in only 37 percent of cases. This compares to 43 percent for the rest of Canada. The difference is especially marked for children whose parents were living common-law at the time of separation (43 percent in Quebec versus 57 percent in the rest of Canada), or for children whose parents had married but were not yet divorced (54 percent versus 66 percent). Detailed data show that not only is there more often a court order for custody in Quebec, but that it is obtained sooner after separation than elsewhere in Canada. This makes sense given that fewer divorces use the grounds of one year of separation in Quebec and that, as we have seen above, all separation agreements must be ratified by the courts to have any legal status.

Existence of a Court Order for Custody by Degree of Tension Between Separated Parents

Is there a relationship between having a custody order and the degree of tension parents reported over visiting rights and living arrangements? Figure 10 shows the distribution of children from broken families according to the degree of tension that parents reported regarding living arrangements and visiting rights, by type of parental separation and existence of a court order for custody.

Figure 10: Degree of Tension Created by the Question of Living Arrangements or Visiting Rights, According to Type of Parental Separation—NLSCY 1994-1995



Regardless of the type of parental separation, parents who said they had a court order for custody were much more likely to also say that the issues of living arrangements and visiting rights were a source of tension than parents who did not have a court order. (Compare the black sections of the pie charts in the two panels of Figure 10). The largest difference in the level of tension reported was between common-law couples who had a court order for custody and those who did not (23 percent as opposed to 6 percent). This result might be interpreted to mean that common-law couples will not likely get a court order for custody unless there is some disagreement or tension surrounding the children's living arrangements, except perhaps in Quebec where common-law couples must obtain a separation judgment from the court to make their arrangements concerning custody and child support legal and enforceable.

There was only one question in the survey asking the responding parent about the level of tension surrounding living arrangements or visiting rights, and this is the only indicator in the NLSCY of the nature of the relationship between the parents during the separation process. Clearly, this information is not sufficient to allow an in-depth analysis of the circumstances that reduce or increase tension during the separation and divorce process. Nevertheless, it does appear that the courts may be receiving most of what might be referred to as the "difficult" cases, that is, those in which the parents have a harder time reaching agreement about parenting issues after separation.

A logistic regression was run to examine the impact of several variables on the likelihood of having a court order for custody (Table 5). The variables included were degree of tension over living arrangements and visiting rights; type of parental separation, duration of separation; and region of residence in Canada.

Table 5: Impact of Given Variables on the Probability That a Court Order for Custody Exists—NLSCY, Cycle 1, 1994-1995

(Logistic Regression Coefficients)

Variables ¹	Coefficients ²
Level of tension between parents (no tension)	1.000
Very little tension	1.559 ***
Some tension	3.188 ***
Great tension	5.105 ***
Type of parental separation (divorce)	1.000
Marital separation	0.302 ***
Common-law separation	0.294 ***
Region (Quebec)	1.000
Atlantic Provinces	0.678 *
Ontario	0.550 ***
Prairies	0.422 ***
British Columbia	0.483 ***
Time elapsed since separation (less than one year)	1.000
1-2 years	1.480 **
3-4 years	2.466 ***
5 + years	2.539 ***

¹ The reference category is given in parentheses.

² Odd ratios. Coefficients significant at: * = 0.05
 ** = 0.01
 *** = 0.001

The regression coefficients show that all variables included in the model are significantly linked to the probability of having a court order for custody, but the degree of tension is the most strongly related factor. When the type of parental separation, the region of residence and the time elapsed since separation are controlled, cases in which a great deal of tension was reported appear five times more likely to have a court order for custody than cases in which no tension was reported.

Since it is not clear what type of formal or informal arrangements existed in the broken families where there was no court order for custody and whether these arrangements were difficult to negotiate, it is difficult to interpret this finding. However, it does appear that most custodial arrangements are settled by the parents themselves and either negotiated between lawyers or mediated. The courts are rightly seen as an avenue of last resort for settling these issues.

Custody

As we will see below, both the level of contact maintained with the non-custodial parent and the regularity of child support payments were linked to the existence of a court order dealing with these issues. Before examining the data on these points, however, we will first look at who received custody of the children and the type of contact that was maintained with the non-custodial parent in those cases where the parents said they had a court order.

Table 6: Court-Ordered Custody Arrangements, According to the Region, the Age of the Child at Separation and the Type of Broken Union—NLSCY, Cycle 1, 1994-1995

	Mother Exclusive Custody	Father Exclusive Custody	Shared Physical Custody	Other	Total	N¹
Canada	79.3	6.6	12.8	1.2	100.0	1239
Atlantic Provinces	74.5	7.2	16.9	1.4	100.0	111
Quebec	87.4	7.2	5.5	0.0	100.0	241
Ontario	76.1	6.8	15.9	1.2	100.0	483
Prairies	78.3	5.3	13.5	2.9	100.0	222
British Columbia	81.4	6.5	11.3	0.8	100.0	182
Age of child at separation						
0-5 years	80.6	6.0	12.4	1.1	100.0	1046
6-11 years	74.0	8.1	15.7	2.1	100.0	187
Type of broken union						
Common-law	84.1	6.2	8.7	1.0	100.0	328
Marriage, common-law before	74.3	7.9	16.8	0.9	100.0	489
Marriage, no common-law before	82.0	5.3	10.9	1.8	100.0	409

¹ N = Weighted data brought back to the original sample size.

The results of Table 6 confirm what is known based on other data sources: after separation mothers were given custody of the children in the overwhelming proportion of cases. In Canada as a whole, close to 80 percent of children under the age of 12 were placed in their mothers' custody in cases where a court order existed. Almost 7 percent were placed in their fathers' custody, and for 13 percent of children, a shared custody arrangement was established.

These proportions change according to the age of the children at the time of separation. Older children are more likely to be placed in their father's care or in joint custody arrangements. Among children aged 6 to 11, one child in four was entrusted to the father's care, either exclusively (8 percent) or jointly with the mother (16 percent). Among children under 6 years of age, only 18 percent were in the custody of the father or in joint custody. Finally, children from broken common-law unions (84 percent), as well as children from Quebec (87 percent), were most likely to remain in the custody of their mother, and there is possibly a link between these two results.

Legal Custody, Living Arrangements and Access to the Non-custodial Parent

Let us first examine how situations where the parents said they had a court order for custody were different from those where there was no court order. Is there any difference in terms of contact with the non-custodial parent and the living arrangements of the children?

To obtain information on the actual living arrangements of the children, the following questions were posed in the survey:

With whom did ... go on living at the time of the separation?

1. Mother only
2. Father only
3. Shared-time basis, mostly mother
4. Shared-time basis, mostly father
5. Equally-shared time, mother and father
6. Other
8. Don't know
9. Refusal

At that time, what type of contact did ... have with his/her other parent?

01. Regular visiting, every week
02. Regular visiting, every two weeks
03. Regular visiting, monthly
04. Irregular visiting, on holidays only
05. Irregular visiting, without set pattern
06. Telephone or letter contact only
07. No contact at all
08. Other
98. Don't know
99. Refusal

For the purpose of our analysis, we have defined visiting every week or every two weeks as “regular visiting”; visiting monthly, on holidays only or without set pattern as “irregular visiting”; and we included telephone or letter contact only with no contact at all under the heading “never visits.”

Living Arrangements of the Children by Whether or Not A Court Order for Custody Existed

Regardless of whether parents said they had a court order, the data in Table 7 show that the overwhelming majority of children live only with their mothers at the time of separation.

This arrangement is slightly more common where parents said there was no court order: 86 percent of the NLSCY children who were not the subject of a court order lived solely with their mothers at the time of separation.

Table 7: Living Arrangements at Time of Separation for Children of Broken Families, by Whether a Court Order for Custody Exists—NLSCY, Cycle 1, 1994-1995

Living Arrangement	Court Order	Court Order in Progress	No Court Order	Total ¹	
				A	B
Sole custody of mother	80.8				
Sole custody of father	6.6				
Shared physical custody	12.6				
Child lives with mother only	68.6	80.1	86.1	86.8	84.0
Child lives with father only	10.5	12.1	5.4	7.0	6.8
Shared, mainly mother	7.8	3.3	4.2	2.9	4.3
Shared, mainly father	3.9	2.1	0.9	0.9	1.3
Equally shared	9.2	2.4	3.4	2.5	3.7
Total	100.0	100.0	100.0	100.0	100.0
N ²	1215	153	331	3276	2214
%	37.1	10.1	52.8	100.0	

¹ Total A includes all respondents having answered the specific question regarding with whom the child went on living at the time of separation, plus children for whom a court order was pronounced in favour of either sole custody of mother or father; in these cases, the child is presumed living exclusively with either parent. Total B excludes this last category of children.

² N = Weighted data brought back to the original sample size.

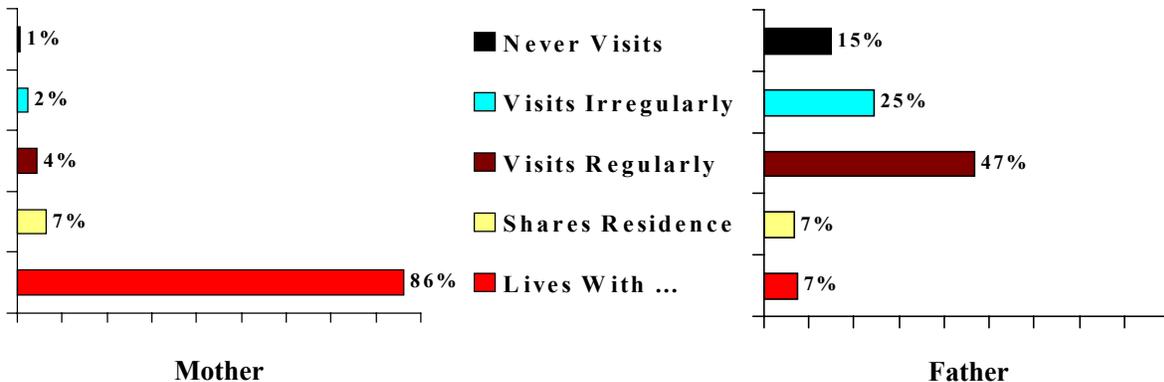
Interestingly, most children for whom parents said there was a court order for shared custody in fact lived only with their mothers at the time of the separation. Equally shared physical custody arrangements were reported in only a very small proportion of cases, regardless of whether parents said there was a custody order or not. Less than 2 percent (9 percent of the 13 percent of children for whom a shared physical custody order existed) of children who were covered by court orders for shared physical custody actually shared residences with both parents, while less than 4 percent of children for whom parents said there was no custody order lived under these arrangements.

Contact with the Non-custodial Parent

In this section we look at the amount of contact non-custodial parents had with their children and attempt to distinguish the different patterns of contact maintained after separation. There is presently a great deal of controversy surrounding this issue as non-custodial parents, mostly fathers, blame their former spouses for preventing them from seeing their children and custodial parents, mostly mothers, blame the absent fathers for losing interest. While the NLSCY provides, for the first time, national level information on the amount of contact between non-custodial parents and their children, it did not ask about the reasons for the patterns of contact maintained. We cannot, therefore, address these issues. What we can do, however, is describe the patterns of contact between non-custodial parents and their children after separation, and the factors associated with these patterns.

Figure 11 shows the distribution of children from broken families according to the type of contact maintained with either parent at the time of separation, regardless of whether the broken union was common-law or marriage. The type of contact mothers maintained is of little interest to us here since, as we have seen above, the vast majority of children live with their mothers when the parents part. We will concentrate then on the patterns of contact between fathers and their children.

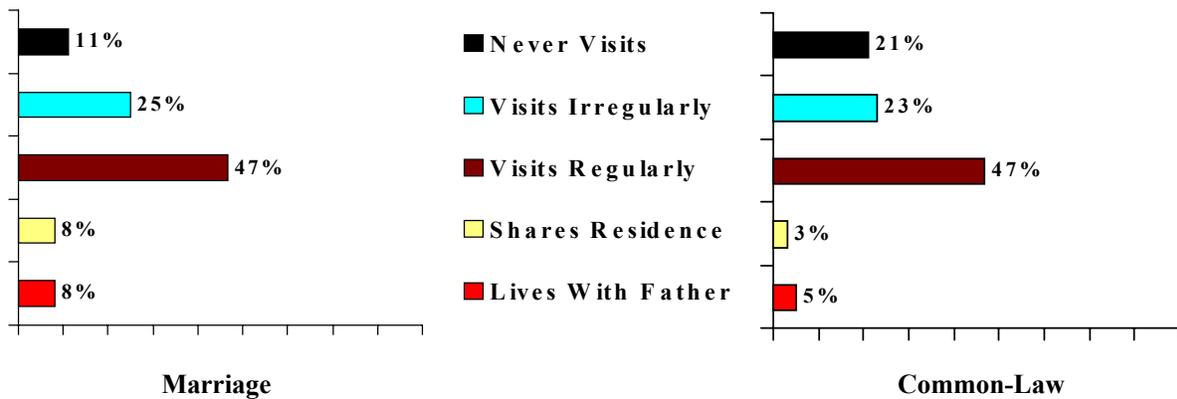
Figure 11: Type of Contact Maintained with Either Parent at Time of Separation—NLSCY 1994-1995



As can be seen, very few children (7 percent) lived with their fathers only and another small fraction shared residence with both parents (7 percent). The rest (86 percent) of the children lived with their mothers and visited their fathers with varied frequency. Close to half of the children visited their fathers on a regular basis: less than a third (30 percent) visited every week, and another 16 percent visited every two weeks (Table 8). A quarter of children visited their fathers irregularly (once a month, on holidays, or at random). Fifteen percent of children never saw their fathers (although a very few had letter or phone contact with him).

Does this pattern vary depending on the type of union that existed at the time of separation? Yes. Firstly, children from common-law unions were more likely to live with their mothers at the time of separation than children whose parents were married (91 percent vs. 83 percent). Secondly, they were less likely to live in a shared custody arrangement (3 percent vs. 8 percent) and, finally, twice as many children from broken common-law unions never saw their fathers compared to children whose parents were married (21 percent vs. 11 percent).

Figure 12: Type of Contact Maintained with Father at Time of Separation, Whether the Broken Union Was a Marriage or Common-Law Union—NLSCY 1994-1995



These patterns were true for the country as a whole, including Quebec where children from broken common-law unions are over-represented among children who experienced a family break-up. Despite the differences in Quebec regarding the forming and dissolving of conjugal unions, the patterns of contact between fathers and their children after separation did not differ from the rest of the country (Table 8).

Table 8: Type of Contact Maintained with Either Parent at Time of Separation, Whether the Broken Union Was a Marriage or Common-Law Union—Canada and Regions—NLSCY, Cycle 1, 1994-1995

Type of Contact	Canada			Atlantic Provinces		
	Marriage	Common-Law	Total	Marriage	Common-Law	Total
Child lives with mother only:	83.2	91.4	86.2	85.3	92.4	87.6
- never visits father *	11.1	21.3	14.8	11.9	21.6	15.1
- visits father irregularly *	25.3	23.3	24.6	25.5	23.3	24.8
- visits father every two weeks	14.9	19.1	16.4	13.7	7.2	11.5
- visits father once a week	31.9	27.7	30.4	34.2	40.3	36.2
Child lives with father only:	8.4	5.3	7.3	7.0	5.7	6.6
- never visits mother *	0.3	1.2	0.7	0.2	2.1	0.8
- visits mother irregularly *	2.5	1.8	2.2	2.3	2.5	2.4
- visits mother every two weeks	2.3	1.2	1.9	2.3	0.0	1.5
- visits mother once a week	3.3	1.1	2.5	2.2	1.1	1.9
Child shares residence with both parents	8.4	3.2	6.5	7.6	1.9	5.7
Total	100.0	100.0	100.0	100.0	100.0	100.0
N¹	2028	1158	3187	162	80	243

* "Irregular" visiting includes once a month, on holidays only and at random; "never" includes contact by telephone or letter only.

¹ N = Weighted data brought back to the original sample size.

Table 8: Type of Contact Maintained with Either Parent at Time of Separation, (continued) Whether the Broken Union Was a Marriage or Common-Law Union—Canada and Regions—NLSCY, Cycle 1, 1994-1995

Type of Contact	Quebec			Ontario		
	Marriage	Common-Law	Total	Marriage	Common-Law	Total
Child lives with mother only:	79.6	89.3	84.5	83.8	93.4	86.9
- never visits father *	10.9	20.4	15.7	10.9	18.0	13.2
- visits father irregularly *	25.2	22.8	24.0	24.4	20.3	23.1
- visits father every two weeks	21.0	23.9	22.5	15.2	21.5	17.2
- visits father once a week	22.5	22.2	22.3	33.3	33.6	33.4
Child lives with father only:	9.4	5.8	7.7	8.3	4.3	7.1
- never visits mother *	0.0	0.8	0.4	0.4	0.7	0.5
- visits mother irregularly *	2.7	2.6	2.7	2.3	0.7	1.8
- visits mother every two weeks	4.1	1.5	2.8	2.2	2.2	2.2
- visits mother once a week	2.6	0.9	1.8	3.4	0.7	2.6
Child shares residence with both parents	10.9	4.9	7.9	7.7	2.4	6.0
Total	100.0	100.0	100.0	100.0	100.0	100.0
N¹	385	396	781	800	372	1172

* “Irregular” visiting includes once a month, on holidays only and at random; “never” includes contact by telephone or letter only.

¹ N = Weighted data brought back to the original sample size.

Table 8: Type of Contact Maintained with Either Parent at Time of Separation, (continued) Whether the Broken Union Was a Marriage or Common-Law Union—Canada and Regions—NLSCY, Cycle 1, 1994-1995

Type of Contact	Prairies			British Columbia		
	Marriage	Common-Law	Total	Marriage	Common-Law	Total
Child lives with mother only:	88.0	89.1	88.4	79.6	95.0	84.0
- never visits father *	11.1	25.5	15.9	11.4	28.0	16.2
- visits father irregularly *	31.9	26.9	30.2	19.8	28.5	22.3
- visits father every two weeks	15.6	11.0	14.1	6.9	15.7	9.4
- visits father once a week	29.4	25.7	28.2	41.5	22.8	36.1
Child lives with father only:	6.1	9.5	7.2	10.6	1.5	8.0
- never visits mother *	0.9	3.2	1.6	0.0	0.9	0.3
- visits mother irregularly *	2.5	3.0	2.7	2.6	0.6	2.0
- visits mother every two weeks	0.5	0.0	0.3	2.7	0.0	1.9
- visits mother once a week	2.2	3.3	2.6	5.3	0.0	3.8
Child shares residence with both parents	6.0	1.4	4.5	9.9	3.5	8.0
Total	100.0	100.0	100.0	100.0	100.0	100.0
N¹	361	180	542	319	130	449

* “Irregular” visiting includes once a month, on holidays only and at random; “never” includes contact by telephone or letter only.

¹ N = Weighted data brought back to the original sample size.

Patterns of Contact Between Non-custodial Parents and Their Children by Age of Children and Time Since Separation

Does the age of the child at the time of separation influence the level of contact maintained with the father? Yes, it does. Other studies have shown that fathers more easily maintain close relationships with their older children than with their younger children. Children from this first cycle of the NLSCY are still all under the age of 12, yet there was a difference in the amount of contact maintained according to the age of the child.

Table 9: Type of Contact Maintained with Father at Time of Separation, According to Age of Child—NLSCY, Cycle 1, 1994-1995

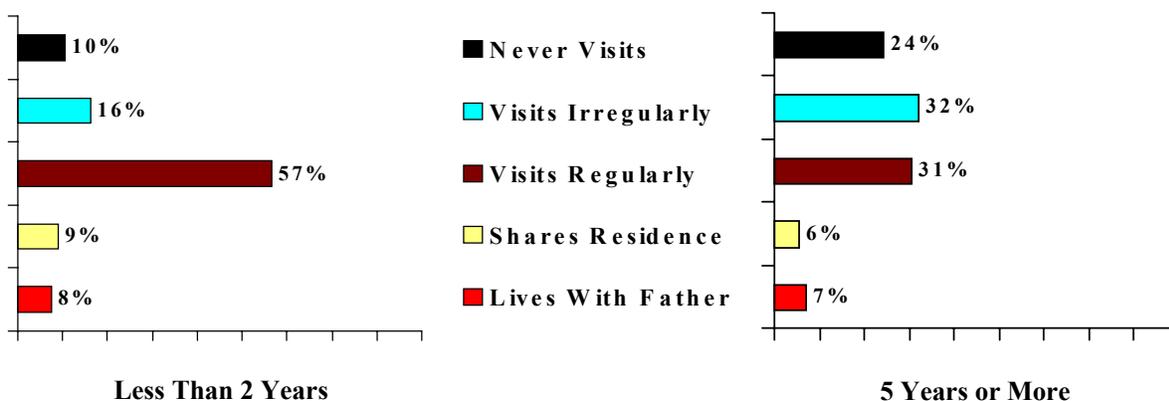
Age of Child at Separation	Lives with Father			Does Not Live with Father				Total	N ¹
	Full-time	Part-time	Sub-total	Never Visits	Irregular Visits	Visits Every 2 Weeks	Weekly Visits		
0-2 years	5.2	3.8	9.0	18.3	26.9	19.4	26.4	100.0	1620
3-5 years	8.1	7.4	15.5	13.7	22.4	14.1	34.2	100.0	1013
6-11 years	10.5	12.0	22.5	7.7	22.4	11.6	35.8	100.0	590

¹ N = Weighted data brought back to the original sample size.

As Table 9 illustrates, two and half times more children aged six to eleven years lived with their fathers, at least on a part-time basis, than children under the age of three (23 percent vs. 9 percent). Weekly visits with their fathers were more frequent for older children than with younger ones (36 percent vs. 26 percent). Moreover, the proportion of children who never saw their fathers was twice as high for children under the age of three than for those aged six to eleven (18 percent vs. 8 percent).

Do these patterns of contact vary with the time elapsed since separation and, if so, does the frequency of contact increase or decrease with time? The subsequent cycles of the NLSCY will obviously yield better information on this matter. For the time being, Figure 13 shows the type of contact maintained with the father at the time of the survey rather than at the time of separation, taking into account the number of years since separation.

Figure 13: Type of Contact Maintained with Father at the Time of Survey, According to Time Elapsed Since Separation—NLSCY 1994-1995



In spite of the limitations of the data, it is clear that the frequency of contact between fathers and their children was closely related to the time since separation. As Figure 13 shows, the likelihood of children sharing residences with both of their parents tends to decrease over time. For example, children whose parents were separated less than two years shared residences in 9 percent of cases compared to only 6 percent of children whose parents were separated for at least five years.

The regularity of visits also drops considerably over time. Fifty-seven percent of children whose parents had been separated for less than two years at the time of the survey visited their fathers regularly (every week or every two weeks). This percentage drops to 31 percent when the parents were separated five or more years before the survey. The drop is most pronounced for weekly visits: 42 percent of children visited their father weekly when the separation was recent as opposed to 13 percent when the parents had been separated at least five years (see Table 10). Moreover, 10 percent of children never saw their fathers when the parents had been separated less than two years, and this increases to 24 percent for children whose parents were separated at least five years. The patterns are slightly more pronounced in relation to broken common-law unions compared to broken marriages: five years or more after their parents separated, only 12 percent of children from broken common-law unions saw their father on a weekly basis, and a third of children (32 percent) never saw their father. These figures are 14 percent and 19 percent respectively for children from broken marriages.

Table 10: Type of Contact Maintained with Either Parent at Time of Survey, Whether the Broken Union Was a Marriage or Common-Law Union, and According to Time Elapsed Since Separation—NLSCY, Cycle 1, 1994-1995

Type of Contact	Type of Broken Union and Time Elapsed Since Separation								
	All Unions			Marriage			Common-Law		
	< 2 Years	2-4 Years	5 + Years	< 2 Years	2-4 Years	5 + Years	< 2 Years	2-4 Years	5 + Years
Child lives with mother:									
- never visits father	10.4	16.6	24.2	8.4	15.1	19.4	13.7	19.4	32.4
- visits father irregularly	16.3	25.2	32.2	16.4	25.5	33.4	16.3	24.6	30.1
- visits father every two weeks	14.9	19.5	17.8	13.6	17.9	18.7	17.1	22.3	16.3
- visits father once a week	41.8	21.9	12.9	39.8	23.0	13.6	44.9	19.7	11.8
Child lives with father:									
- never visits mother	0.4	0.5	2.6	0.2	0.7	1.1	0.7	0.3	5.0
- visits mother irregularly	1.2	4.3	1.9	1.7	4.5	2.3	0.4	3.9	1.3
- visits mother every two weeks	3.1	2.6	1.1	3.4	2.4	1.4	2.5	2.8	0.5
- visits mother once a week	2.8	1.2	1.6	3.8	1.2	2.5	1.3	1.0	0.2
Child shares residence with both parents	9.0	8.3	5.5	12.6	9.6	7.5	3.1	6.0	2.3
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
N¹	902	1020	929	558	661	584	345	359	345

¹ N = Weighted data brought back to the original sample size.

Unfortunately, we cannot discuss the reasons for these patterns based on the existing survey data. In further cycles of the NLSCY, we will be able at least to establish some links between the patterns of contact between non-custodial parents and their children and the conjugal life of both parents after separation. Ideally, separated fathers should be surveyed. The methodology of the NLSCY would have to be adapted to explore further avenues of research on the relationships between children and their fathers following a family break-up.

Child Support and Access to the Non-custodial Parent

In this section, we examine the links between custody, child support, patterns of contact and the regularity of child support payments. We will attempt to assess the extent to which the regularity of child support payments is linked to the regularity of contact between fathers and their children. Again, establishing these links will not address the reasons behind given patterns, but until a systematic study of non-custodial fathers looks at these questions, the present data will at least assist us in beginning to sketch a profile of fathers separated from their children.

Court-Ordered Child Support Arrangements

The survey asked about the arrangements parents had made for child support when they separated. The following questions were posed:

What type of agreement was made regarding support/maintenance payments when ...'s parents separated or divorced?

1. None
2. Private agreement between spouses
3. Court-ordered agreement in progress
4. Court-ordered agreement
8. Don't know
9. Refusal

Was this ... ?

1. For child support only
2. For spousal support only
3. For both
8. Don't know
9. Refusal

How regular have the maintenance support payments been?

01. Regular and on time
02. Regular but late sometimes
03. Irregular
04. No payments for the last 6 months
05. No payments for the last year
06. No payments for the last few years
07. Payments never been received
08. Payments stopped due to a change in circumstances, e.g. court order, death of payer, etc.
98. Don't know
99. Refusal

No definition of the term "private agreement" was provided, so it remains difficult to interpret some of the results. For example, parents might have had a truly private agreement between themselves, or they could have been referring to a written separation agreement when they stated they had a private agreement. The latter arrangements are as good as a court order and can be enforced by, or registered with, an enforcement agency. Therefore, children covered by such an arrangement are not necessarily in the precarious situation one might imagine when the term "private agreement" is used. Table 11 shows the distribution of Canadian children from broken homes by type of support agreement, according to the type of separation.

Table 11: Type of Support Agreement According to Type of Broken Union—Canada and Regions—NLSCY, Cycle 1, 1994-1995

Region and Type of Support Agreement	Type of Broken Union			
	Marriage Divorce	Marriage Separation	Common-Law Separation	All Unions
CANADA				
Court order	48.7	15.6	20.3	27.8
Court order in progress	8.3	8.3	8.2	8.3
Private agreement	25.9	39.4	29.2	31.5
No agreement	17.2	36.7	42.2	32.5
Total	100.0	100.0	100.0	100.0
N ¹	1047	1077	1184	3308
ATLANTIC PROVINCES				
Court order	52.5	21.0	20.2	30.9
Court order in progress	5.9	8.1	9.9	8.0
Private agreement	18.2	33.1	18.7	23.6
No agreement	23.5	37.8	51.2	37.5
Total	100.0	100.0	100.0	100.0
N ¹	82	90	82	253
QUEBEC				
Court order	33.3	12.7	17.9	21.6
Court order in progress	15.4	10.7	15.0	14.3
Private agreement	28.7	41.4	30.9	32.3
No agreement	22.6	35.1	36.2	31.9
Total	100.0	100.0	100.0	100.0
N ¹	246	158	407	812
ONTARIO				
Court order	54.3	15.4	20.5	28.2
Court order in progress	5.9	9.9	6.0	7.5
Private agreement	21.9	36.3	33.5	31.3
No agreement	18.0	38.5	40.0	33.0
Total	100.0	100.0	100.0	100.0
N ¹	351	491	373	1215
PRAIRIES				
Court order	54.0	16.3	21.1	32.1
Court order in progress	6.9	5.8	2.4	5.1
Private agreement	27.0	42.0	21.1	29.6
No agreement	12.0	35.9	55.4	33.2
Total	100.0	100.0	100.0	100.0
N ¹	213	170	181	564
BRITISH COLUMBIA				
Court order	50.9	15.3	26.1	30.5
Court order in progress	5.9	3.8	1.2	3.7
Private agreement	32.8	47.4	29.3	37.0
No agreement	10.5	33.4	43.5	28.8
Total	100.0	100.0	100.0	100.0
N ¹	155	168	140	463

¹ N = Weighted data brought back to the original sample size.

The most significant finding here is that for almost a third of Canadian children whose parents have separated, the parents said there was no agreement regarding child support payments.

Children whose parents had actually divorced at the time of the survey were more likely to be covered by some type of child support agreement than children whose parents had not divorced. When the parents were divorced, parents said there was a court order in place, or in progress, in 57 percent of cases and there was no agreement in only 17 percent of cases. Forty-two percent of children from broken common-law unions were without any form of child support agreement and they were followed closely by children whose parents had not yet divorced at the time of the survey (37 percent).

Table 12 shows that the proportion of court-ordered agreements for child support tends to increase with time. Most likely, this finding simply reflects the time it takes for cases to be finalized in the courts. Nonetheless, 11 percent of children were covered by a court-ordered agreement even when the parents had been separated less than two years, and the percentage increases to 39 percent when the parents had been separated at least five years. One interesting fact, however, is that the percentage of children whose parents said there was no agreement for child support did not decrease significantly over time. Thus, even five years or more after the separation, 54 percent of parents had no court order for child support, but close to half of these parents had a private agreement between the spouses.

**Table 12: Type of Support Agreement According to Time Elapsed Since Separation—
Canada and Regions—NLSCY, Cycle 1, 1994-1995**

Time Elapsed	Type of Support Agreement				Total	N ¹
	Court Order	Court Order in Progress	Private Agreement	No Agreement		
CANADA						
Less than 2 years	10.9	10.1	41.4	37.6	100.0	1057
2-4 years	33.3	7.6	29.8	29.3	100.0	1174
5 + years	38.7	7.2	23.5	30.6	100.0	1062
ATLANTIC PROVINCES						
Less than 2 years	13.6	12.1	30.7	43.6	100.0	89
2-4 years	32.3	7.0	27.6	33.1	100.0	87
5 + years	49.7	4.3	10.5	35.5	100.0	76
QUEBEC						
Less than 2 years	7.7	10.1	49.2	33.0	100.0	246
2-4 years	32.3	15.1	24.9	27.8	100.0	251
5 + years	23.9	16.8	25.0	34.3	100.0	314
ONTARIO						
Less than 2 years	11.6	13.8	35.8	38.7	100.0	389
2-4 years	34.3	4.4	31.3	30.1	100.0	458
5 + years	38.3	4.9	26.3	30.6	100.0	365
PRAIRIES						
Less than 2 years	11.7	5.3	41.0	42.0	100.0	185
2-4 years	28.9	8.6	29.6	33.0	100.0	185
5 + years	54.8	1.6	18.8	24.8	100.0	191
BRITISH COLUMBIA						
Less than 2 years	11.5	5.4	50.2	32.8	100.0	147
2-4 years	36.9	4.7	33.9	24.4	100.0	192
5 + years	46.0	0.0	27.1	26.9	100.0	116

¹ N = Weighted data brought back to the original sample size.

If the time since separation and the type of separation are taken into account, the impact of formalizing the break-up of the parents' union on the type of agreement for child support is very clear. As can be seen in Table 13 below, five years or more after their parents had separated, there was no agreement regarding child support for 18 percent of children whose parents were divorced. This compares to 39 percent for children whose parents were separated and 46 percent for children from broken common-law unions.

The existence of an agreement concerning child support tells us very little about whether the payments are actually made and the regularity with which they are made. We will now turn to this question. Is the regularity of payments linked to the type of parental separation and the type of agreement reached regarding child support?

Table 13: Type of Support Agreement According to Type of Broken Union and Time Elapsed Since Separation—NLSCY, Cycle 1, 1994-1995

Type of Broken Union and Time Elapsed	Type of Support Agreement				Total	N ¹
	Court Order	Court Order in Progress	Private Agreement	No Agreement		
MARRIAGE-DIVORCE	48.9	8.4	26.0	16.7	100.0	1037
Less than 2 years	12.7	13.3	48.3	25.7	100.0	90
2-4 years	51.5	8.6	27.6	12.4	100.0	388
5 + years	52.9	7.5	21.4	18.2	100.0	559
MARRIAGE-SEPARATION	15.6	8.3	39.3	36.8	100.0	1075
Less than 2 years	12.6	9.5	42.5	35.4	100.0	578
2-4 years	19.4	7.8	34.6	38.2	100.0	374
5 + years	18.3	4.1	38.5	39.1	100.0	123
COMMON-LAW-SEPARATION	20.5	8.3	29.4	41.9	100.0	1175
Less than 2 years	7.9	10.6	38.9	42.6	100.0	382
2-4 years	28.7	6.4	27.6	37.3	100.0	412
5 + years	24.2	7.9	21.8	46.0	100.0	381

¹ N = Weighted data brought back to the original sample size.

Regularity of Child Support Payments by Type of Child Support Agreement and Type of Parental Separation

Unfortunately, the question concerning the regularity of child support payments was not asked in cases where the parent stated that no agreement existed regarding support payments. In future cycles, it would be important to collect this information from all respondents since it is likely that, although no formal agreement was made, the fathers might nonetheless contribute to the costs of raising their children.

Table 14 shows that, in general, more children who are covered by what their parents describe as a private agreement receive regular support payments than children whose parents say they have a court-ordered agreement. Two thirds of children under private agreements benefited from regular support payments, compared to 43 percent of children whose parents stated they had a court-ordered agreement. Moreover, cases where there have been no payments in the last six months are much more common where the parents said there was a court order than where support payments are dealt with through a private agreement (30 percent vs. 14 percent).

Table 14: Type of Support Agreement and Regularity of Payments, According to Type of Broken Union—NLSCY, Cycle 1, 1994-1995

Type of Broken Union	Type of Support Agreement and Regularity of Payments									
	Court-ordered					Private				
	Regular	Irregular	None for at Least 6 Months	Total	N ¹	Regular	Irregular	None for at Least 6 Months	Total	N ¹
Marriage	43.9	31.3	24.8	100.0	665	72.9	18.7	8.4	100.0	595
Common-law	41.0	14.2	44.8	100.0	232	53.4	22.3	24.3	100.0	309
All	43.0	27.0	30.0	100.0	897	66.3	19.9	13.8	100.0	904

¹ N = Weighted data brought back to the original sample size.

This trend holds true regardless of the type of broken union. For children whose parents were married and made a private agreement regarding child support, the data show a high proportion (73 percent) of regular payers and only 8 percent of cases where payments had not been made for the last six months. In the case of broken common-law unions, the proportion of cases in which there had not been a payment in the last six months is much higher, regardless of whether there was a private agreement between the spouses (24 percent), or whether a court order was in place (45 percent). But the most significant result is that agreements that parents described as private resulted in more regular payments than cases where a court order was in place or was in progress.

Frequency of Contact with the Non-custodial Parent by Type of Child Support Agreement and Regularity of Payments

Table 15 provides evidence that the frequency of contact with the non-custodial parent is associated with the type of child support agreement that was reached. Private child support agreements were associated with more frequent contacts between children and their non-custodial parent than all other types of arrangements (including no agreement). They were associated with higher proportions of children living with their fathers either full time or part time (18 percent) or visiting their fathers on a weekly basis (44 percent), and with a much smaller number of cases (4 percent) where there was no contact with the non-custodial parent.

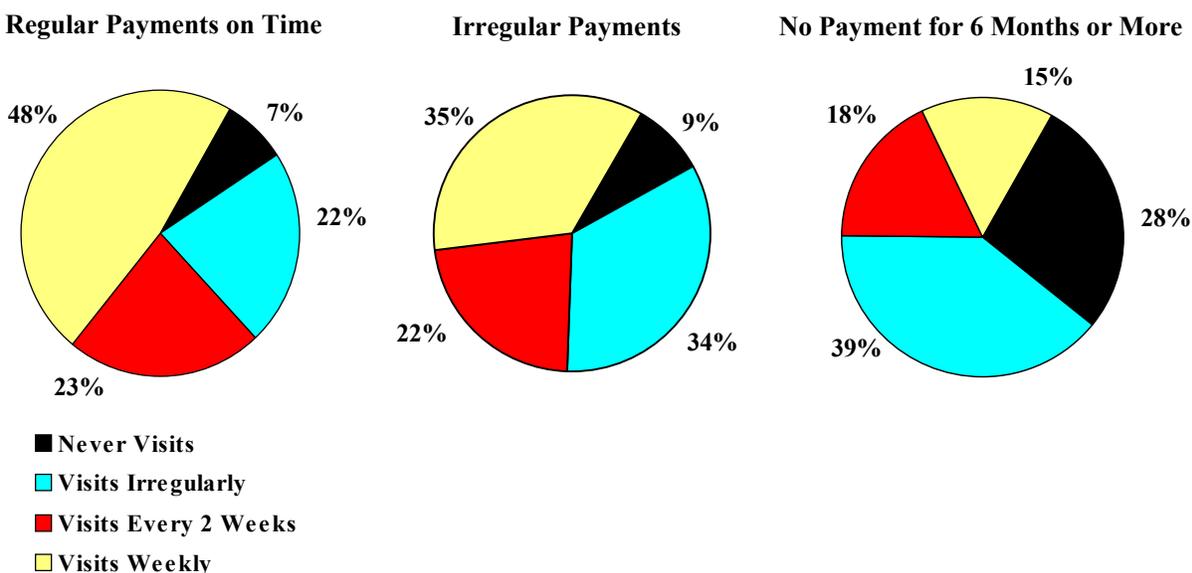
Table 15: Type of Contact Maintained with Fathers at Time of Separation, According to the Nature of Child Support Agreement—NLSCY, Cycle 1, 1994-1995

Child Support Agreement	Lives with Father		Does Not Live with Father				Total	N ¹
	Full-time	Part-time	Never Visits	Irregular Visits	Visits Every 2 Weeks	Weekly Visits		
Private	6.5	11.0	3.7	19.8	15.0	44.0	100.0	1019
Court order	3.2	1.8	17.4	32.0	23.3	22.3	100.0	897
Court order in progress	6.1	3.9	14.0	28.6	20.5	27.0	100.0	267
No agreement	11.6	6.6	23.8	22.3	10.4	25.3	100.0	1053

¹ N = Weighted data brought back to the original sample size.

Figure 14 reveals the close association between regularity of payments and frequency of visits. Among children living with their mother, and for whom child support payments were regular and on time, close to half (48 percent) visited their father on a weekly basis, while only 7 percent never saw him. In comparison, fathers who did not provide financially for their children on a regular basis had fewer contacts with them. Only 15 percent of children whose father had not provided child support payments in the last six months saw their father weekly and 28 percent never saw him.

Figure 14: Visiting Patterns with Father, for Children Living with Mother at Time of Separation, According to Regularity of Child Support Payments—NLSCY 1994-1995



A multinomial logistic regression was run to examine the impact of both the type of child support agreement and the regularity of payments on the likelihood of fathers to maintain contact with their children, while controlling for other variables, such as the nature of the broken union. The results presented in Tables 16 and 17 predict the propensity of fathers to maintain regular or irregular contacts with their children, as opposed to having no contact with them.

Table 16 reveals a close association between the type of child support agreement and the frequency of visits. Among all children living with their mother, the existence of a court-ordered agreement multiplies by 2 to 3 the probability of fathers to maintain either irregular or regular contact with their children. The conclusion of a private agreement exerts an even stronger effect: it multiplies by more than 10 the likelihood of fathers to see their children on a regular basis, as opposed to not seeing them.

Table 16: Impact of Given Variables on the Propensity of Fathers to Maintain Contact with Their Children—NLSCY, Cycle 1, 1994-1995

(Multinomial Logistic Regression Coefficients) ¹

Variables ²	Frequency of Visits with Father (None)	
	Regular	Irregular
Child support (no agreement)	1.000	1.000
Court-ordered agreement	2.988***	2.312***
Private agreement	10.688***	5.762***
Custody (not submitted to court)	1.000	1.000
Court-ordered agreement	0.433***	0.495***
Court order in progress	0.555*	0.838
Type of union (marriage)	1.000	1.000
Common-law union	0.516***	0.472***
Degree of tension (very little or none)	1.000	1.000
Great or some tension	1.746***	2.213***
Time elapsed since separation (0-1 year)	1.000	1.000
2-4 years	0.380***	0.614**
5 + years	0.268***	0.788

¹ Odd ratios. Coefficients significant at: * = 0.05
 ** = 0.01
 *** = 0.001

² The reference category is given in parentheses.

Other things being equal, children whose parents said they had a custody court order appeared less likely to visit their father on a regular or irregular basis than those who were not covered by a court order. The degree of tension between the parents surrounding access and visitation was also found to significantly influence the propensity of fathers to maintain contact with their children. At first, it is surprising to find that fathers appeared more likely to keep contact with their children when some tension existed between the parents. But this might be due to the fact that in situations where children have completely lost contact with their father, obviously no tension is reported about living arrangements or visitation. The probability that a father would maintain contact tended to decrease as the time since separation increased, while children born to common-law couples had a much lower likelihood of visiting their father on a regular or irregular basis than those born to married parents.

Table 17: Impact of the Regularity of Payments and of Other Variables on the Propensity of Fathers to Maintain Contact with Their Children, for Those Covered by a Support Agreement—NLSCY, Cycle 1, 1994-1995

(Multinomial Logistic Regression Coefficients) ¹

Variables ²	Frequency of Visits with Father (None)			
	Regular	Irregular	Regular	Irregular
Child support (court-ordered agreement)	1.000	1.000	1.000	1.000
Private agreement	2.392***	2.058**	1.811*	1.885*
Custody (not submitted to court)	1.000	1.000	1.000	1.000
Court-ordered agreement	0.223***	0.417**	0.214***	0.398***
Court order in progress	0.700	1.067	0.684	1.098
Regularity of payments (none for at least 6 months)			1.000	1.000
Regular payments			6.386***	1.861**
Irregular payments			6.434***	2.918***
Type of union (marriage)	1.000	1.000	1.000	1.000
Common-law union	0.564**	0.493***	0.868	0.610*
Degree of tension (very little or none)	1.000	1.000	1.000	1.000
Great or some tension	1.004	1.447	0.990	1.383
Time elapsed since separation (0-1 year)	1.000	1.000	1.000	1.000
2-4 years	0.242***	0.486*	0.175***	0.380**
5 + years	0.245***	0.733	0.253***	0.731

¹ Odd ratios. Coefficients significant at: * = 0.05
 ** = 0.01
 *** = 0.001

² The reference category is given in parentheses.

Information on the regularity of child support payments was collected only from parents declaring that an agreement (either private or court-ordered) existed concerning child support. For those children covered by a child support agreement, the effect that the type of agreement exerts on the frequency of visits is first examined in the first two columns of Table 17; the next two columns add the impact of the regularity of support payments. The regularity of payments appears strongly related to the likelihood of fathers maintaining frequent contact with their children, and the impact of this variable remains important even after controlling for the type of custody and child support arrangements, the type of union, the level of tension between parents, and the time elapsed since separation. As can be seen in Table 17, fathers who made some payment, whether regularly or irregularly, were significantly more likely to see their children. Regular payments multiplied by 6.39 the chances that a father would see his children on a regular basis, compared to cases where no payment had been made in the last six months. Fathers who provided payments on an irregular basis were also significantly more likely to visit their children, either regularly or occasionally, than fathers who had not made a support payment in the last six months.

Interestingly, the introduction of the regularity of payments into the analysis did not greatly alter the effect of the other variables, with the exception of the degree of tension (which was no longer significant) and of the type of union. When controlling for the regularity of child support payments, children born to common-law parents no longer appeared less likely to see their father on a regular basis than those born to married parents. This result suggests that part of the effect attributed to the type of union is in fact due to the lower propensity of common-law fathers to pay child support, which in turn is directly linked to the frequency of visits.

IV – CONCLUSION

The NLSCY provides invaluable data on the family histories of children in Canada. Further cycles will allow us to assess the impact of the many challenges that a growing number of Canadian children face as more and more children live through the separation of their parents, and at increasingly young ages.

This research has shown that the family lives of children are becoming increasingly complex. Not only are children being born in greater and greater numbers to couples in common-law unions, but they are more at risk of experiencing their parents' separation and at an ever younger age. The type of union parents enter into to raise their family has far-reaching consequences on the lives their children will lead. As we have seen, common-law unions are more likely to end in separation than marriages; children of these common-law unions are more likely than children from broken marriages to live exclusively with their mother, they are more likely to see their father irregularly or not at all; and are less likely to benefit from regular child support payments.

Children whose parents divorce rather than separate are more likely to be covered by a court-ordered child support agreement but children covered by a private agreement are more likely to receive regular support payments than those covered by a court-ordered agreement. Further analysis is required to look at such variables as the impact of the formation of a new union by either parent on the existing agreements regarding the child or children from a previous union. To what extent can the loss of contact by fathers be explained by the erosion of the father-child relationship over time? How much of the loss of contact is explained by conflict between former spouses regarding access? What is the impact on the formation of new unions by either parent on the amount of contact between fathers and their children? What is the impact of separation on the level and sources of income for custodial parent households? It is these questions that we will turn to in our future research.